IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE TWENTY FIFTH DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE R.SUBHASH REDDY

WRIT PETITION No. 9223 of 1996

Between:

P.A.K.S.Christopher, S/o.Jesuratnam, aged 50 years,

Rep.by its GPA P.Manjunath, son of P.Radhakrishna Chetty,
Plot No. 22, Mourya apartments,

Rajendranagar , Visakhapatnam

..... PETITIONER

AND

1 Visakhapatnam Urban Development authority,

rep., by its Vice Chairman, Siripuram Jn,
Visakhapatnam
2 D.S.Veerabhadrarao s/o D.S.Gandhi
32-26-9, Allipuram, Visakhapatnam

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate Writ, Order or Direction more particularly one in the nature of a Writ of Mandamus declaring the action of the 1st respondent in cancelling the allotment of Plot No. MIG 279 of Madhavadhra layout, Visakhapatnam belonging to the petitioner as arbitrary, illegal, mala fide and without jurisdiction and consequently nullify the decision communicated under letter No.P.NO: 279/MIG/MD/C3/ dt. 18/03/96 and also the reallotment by auction and further direct it to allow the petitioner to proceed with the construction therein.

Counsel for the Petitioner: DR.P.B.VIJAY KUMAR

Counsel for the Respondent No.:

The Court made the following:

ORDER

This writ petition is filed, seeking Writ of Mandamus, to declare the action of the first respondent in cancelling the allotment of plot bearing No. MIG 279 of Madhavadhara lay out of Visakhapatnam, as illegal and arbitrary, and for a consequential direction to set aside the proceedings No.P.279/MIG/MD/C3, dated 18.03.1996 issued by the first respondent.

The petitioner was the allottee of plot bearing No.MIG 279 in Madhavadhara lay out of Visakhapatnam, in proceedings No.P.279/MIG/C4/Dt.9/84. Pursuant to the said allotment, sale deed was presented for registration by the first respondent-Visakhapatnam Urban Development Authority on 6-10-1989. As there was a dispute with regard to stamp duty payable on the plots allotted by the Visakhapatnam Urban Development Authority, sale deed was not released to the petitioner. The document, ultimately, was released only on 20-4-1996. But, however, earlier to the same, the impugned action was taken to cancel the allotment of plot to the petitioner on the ground that the same was not utilized for construction of plot.

Though the Writ Petition is of the year 1996, no counter affidavit is filed.

It is however submitted that the Visakhapatnam Urban Development Authority, itself has subsequently passed a resolution to give further opportunity to the allottees, like that of the petitioner, to utilize the land for construction.

Taking the said aspect into consideration, and, also in view of the fact that the

document itself was released to the hands of the petitioner-allottee only on 20-4-1996, the reasons mentioned in the cancellation order cannot be sustained. Even to obtain a copy of sanction permission, a copy of the document is to be enclosed; in that view of the matter, the reason of not utilizing the plot for construction is not a valid ground to cancel the very allotment. In that view of the matter, the impugned decision of cancellation in the proceedings dated 18-3-1996 is illegal and arbitrary and accordingly the same is set aside.

The Writ Petition is allowed to the extent indicated above. No order as to costs.

ASSISTANT REGISTRAR

Dsr/Msnr

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this Friday, the Twenty fifth day of February, Two thousand and five.

ASSISTANT REGISTRAR

To:

1. The Vice Chairman,

Visakhapatnam Urban Development authority,

Visakhapatnam

2. Two CD copies